IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

MONDAY, THE THIRD DAY OF MARCH
TWO THOUSAND AND EIGHT

PRESENT
THE HON'BLE MR JUSTICE V.ESWARAIAH
WRIT PETITION No: 24552 of 2005

Between:
1 Chinta Kayala Mutyalu, S/o Mutyalu, Gram Panchayat, Mutyalapalem, Paravada Mandal, Visakhapatnam District.
2 Tikkada Satyanarayana, S/o T. Appanna, Tikkavanipalem, Paravada Mandal, Visakhapatnam District.

... PETITIONERS

AND

1 The District Collector/Executive Director, A.P. State Housing Corporation, Visakhapatnam, Maharanipeta, Visakhapatnam District.
2 The Joint Director of Fisheries, AOB Canteen, Fishing Harbour, Visakhapatnam District.
3 The Assistant Director of Fisheries, AOB Canteen, Fishing Harbour, Visakhapatnam District.
4 The Mandal Revenue Officer, Paravada Mandal, Visakhapatnam District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order direction or a writ more particularly one in the nature of writ of mandamus declaring the action of the respondents No.1 to 4 in not implementing the order passed by the 1st respondent in Rc.No.25/2005/AME dt.20-6-2005 in respect of first list of beneficiaries of fishermen of Mutyalammapalem, Dibbapalem, Tikkavanipalem and Jalaripeta Villages and providing houses to those beneficiaries under Fishermen Housing Programme-2004-05 and any action of the 1st respondent to change the first list of beneficiaries as illegal, null and void and violative of Articles 14 and 21 of Constitution of India and consequentially direct the respondents No.1 to 4 herein to implement the said orders of the 1st respondent dt.20-6-2005 in respect of first list of beneficiaries in the interest of justice and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioners: MR.K.MANIK PRABHU

Counsel for the Respondents: GP FOR REVENUE

The Court made the following:
ORDER:

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This Court while considering the vacate stay made the following order on 02.02.2007

"Counter has been filed on behalf of the respondents 1 to 3 by the second respondent.

The first petitioner is the Sarpanch of Mutyalapalem Gram Panchayat and the second petitioner is the President of the Fisherman Cooperative Society, Tikkavanipalem. It is stated that the due Tsunami on 26.12.2004 the villages of Mutyalapalem, Tikkavanipalem, Jalaripeta and Diabbapalem within the limits of Paravada Mandal were affected causing huge loss to the fisherman community who had their houses and also in several others mandals of Visakhapatnam and accordingly the Government issued orders in G.O.Ms.No.77 Housing (RH-1) Department dated 01.03.2005 sanctioning 2865 houses with a unit cost of Rs.40,000/- to Tsunami fisherman beneficiaries in 5 mandals of Visakhapatnam and 365 houses have been sanctioned in Paravada mandal i.e. 150 houses in Dibbapalem, 50 houses in Tikkavanipalem, 40 houses in Jalaripeta and 125 houses in Mutyalapalem.

It is further submitted that the beneficiaries have also been identified and recognized after necessary enquiry and the Joint Director also furnished the list, Fisheries in respect of particular of the beneficiaries for construction of 365 houses. Accordingly, the District Collector/Executive Director, AP State Housing Corporation passed orders in Rc.No.25/2005/AME dated 20.06.2005 sanctioning 365 houses for the aforesaid villages of Paravada mandal and the list of the beneficiaries was also enclosed therewith. According to the said orders the Government sanctioned subsidy at Rs.20,000/-, loan amount of Rs.17,500/- and beneficiary contribution of Rs.2,500/- towards the cost of one house amounting to Rs.40,000/-.

It is stated that no irregularity took place in identifying the beneficiaries by the Joint Director in respect of 365 houses but the list has been illegally changed at the instance of local MLA and the Minister for Commercial Taxes and Minister for Roads and Buildings.

Counter has been filed on behalf of the respondents 1 to 3 stating that the aforesaid averments that the District Collector/Executive Director vide his proceedings dated 20.06.2005 sanctioned 2865 houses in 5 mandals of Visakhapatnam District and 365 houses in Paravada Mandal has been accepted but in view of the verbal complaints received from some of the fisherman that their

cases have not been covered and that there is need for reconsideration for revision of already drawn up list; the Assistant Director of Fisheries, revised the list identifying 450 beneficiaries and in the list 450 beneficiaries 104 beneficiaries of the first list of 365 are also included. The other allegation that the entire list of 365 beneficiaries has been illegally cancelled was denied and there is no interference either by the local MLA or two Ministers. It is further stated that the cases of remaining 261 beneficiaries would not be overlooked and their case is also likely to be considered.

I am of the opinion that if any of the genuine case of the beneficiaries who are not initially identified from the list of 365, their case can considered by sanctioning additional houses but prima facie I find that there is no justification in canceling or revising the first list of 365 beneficiaries without there being any fraud or misrepresentation or illegality found by the respondents, more so no notice was given to the affected parties with regard to the cancellation of the list. Therefore,

I am of the opinion that it is just and proper to direct the respondents to implement the orders of the District Collector/Executive Director, Andhra Pradesh State Housing Corporation, dated 20.06.2005 in Rc.No.25/2005/AME in respect of first list of 365 beneficiaries by providing them houses under Fisherman Housing Programme 2004-05 insofar as Paravada Mandal is concerned…"

2. Learned counsel for the petitioners submits that the aforesaid order has been passed after considering rival contentions and having regard to the facts an circumstances, the writ petition itself may be disposed of interim of the said order.

Having regard to the facts and circumstances of the case, the writ petition is disposed of in terms of the aforesaid order.

There shall be no order as to costs.

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V. ESWARAIAH, J

March 3, 2008
DSK